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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/613,786	07/03/2003	Frederick Thomas Pearson		7005

7590 10/16/2007  
Kent R. Moore  
Kent R. Moore, P.C.  
10128 Rolling Wind Drive  
Soddy-Daisy, TN 37379

EXAMINER

CLEMENT, MICHELLE RENEE

ART UNIT	PAPER NUMBER
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3641

MAIL DATE	DELIVERY MODE
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10/16/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/613,786

**Applicant(s)**

PEARSON

**Examiner**

Michelle (Shelley) Clement

**Art Unit**

3641

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4, 6-9, 12 and 19-24 is/are pending in the application.
- 4a) Of the above claim(s) 1-4, 6-9 and 19-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12, 22-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)  
Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments filed 6/25/0 have been fully considered but they are not persuasive. Applicant's arguments amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. Initially applicant contends that claim 12 has been amended to make clear that it is the inner diameter and the outer diameter of the respective tube sections that are in direct contact. However this is not exactly the claim language, it is noted that claim 12 recites "the outer **wall** of the proximal end of the at least one additional tube section directly contacts the inner **wall** of the distal end of the first tube section". From the figures of Lin it is clear that the outer **wall** (of the proximal end of the additional tube section) directly contacts the inner **wall** of the distal end of the first tube section. From the figures these sections are clearly in direct contact at the claimed points. It is further noted that the outer wall constitutes the **entire** outer wall (i.e. surface) of the tube and not just a single point on the tube as applicant appears to be arguing. Applicant's arguments concerning the terms "inner" and "outer" as they relate to being "farther in" or "farther out" are not applicable in the situation where the two diameters do not have a common reference point. The inner diameter of the inner wall of one tube section is not required *by definition* to be "situated farther in" than an outer diameter of an outside wall of a *completely separate tube*. In such a case it is the configuration of the elements in the claim language that determines if the claimed "inner" is "farther in". Regardless, in the current situation Lin shows that the inner wall (for instance where applicant has shown the dot and the terms "inner diameter") of the distal end of the first tube section is situated "farther in"

(toward the axis of the tubes) than the outer diameter (for instance where applicant has shown the dot and the terms "outer diameter") of the proximal end of the at least one additional tube section. In response to applicant's argument that the references are nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, the references are in the same field of endeavor. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. In regards to applicant's remarks concerning the Strodtman reference, it is noted that the reference is relied upon for the teaching of the tapering of the telescoping tube sections, it is the suggestion of Strodtman that is combined with the additional references that is relied upon for the current rejection (Strodtman is not relied upon for teaching of a material and applicant has claimed a specific material). See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

***Claim Rejections - 35 USC § 103***

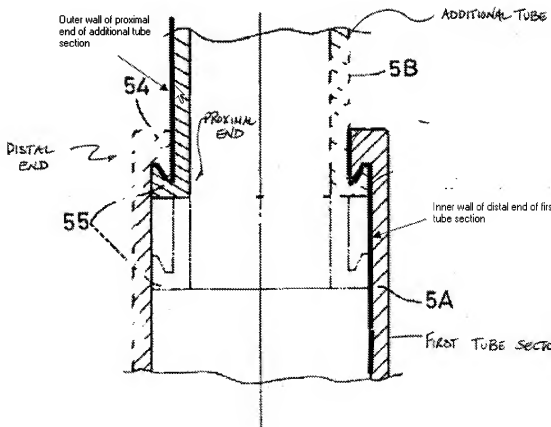
2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

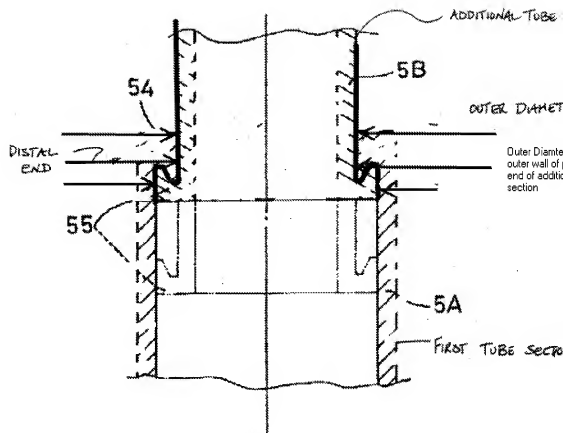
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

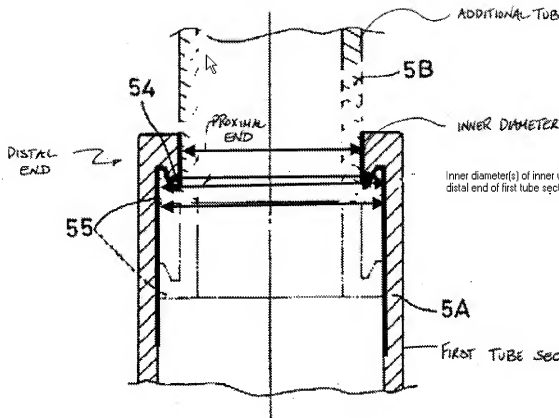
3. Claims 12 and 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lin (US Patent # 6,091,597), Larsen et al. (US Patent # 3,362,711), Henderson et al. (US Patent # 3,998,459) and Strodtman (US Patent # 5,287,255). Lin discloses a shock defense device comprising a first tube section (reference 4 and 5A) comprising a power source (column 3, lines 10-14) electrically connected to a high voltage generator, a first tube section (reference 5B) having a base section and a distal end, at least one additional tube section (references 5B and 5C) having a proximal end and a distal end and being disposed within the first tube section (column 3, lines 14-25), the proximal end of the at least one additional tube section having an outer diameter that is larger than the inner diameter of the distal end of the first tube section (Figures 10A and 11) (See examiner's notes on Figure 11 (the bolding references the respective inner and outer walls and thereby the respective inner and outer diameters) below clearly showing that the proximal end of the at least one additional tube section has an outer wall having an outer diameter that is larger than the inner diameter of the distal end of the first tube section, it is noted that wedge portions 54 and 55 are part of the tube sections and therefore part of the diameter of the tube sections that constitute the inner and outer diameters of the tube sections, when these two sections directly contact with each other as shown in figure 11 the direct contact between the outer wall and the inner wall causes the two sections to lock, i.e. they frictionally connect, the fact that they additionally have a normal force between them is irrelevant) and having a connection means to connect to the first tube section, said distal end comprising a conductive probe (references 53, 53' or 121), for delivering a high-voltage shock, electrically connected to the output of the high voltage generator (column 3, lines 1-25), and deployment means (column 3, lines 14-20) to extend the at least one additional tube section from its position as being

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disposed within the first tube section to an extended position the proximal end of the at least one additional tube section frictionally connects to the distal end of the first tube section (Figures 10A and 11). The device comprising a first conductive lead (references 51 and 51' and 121(+ & -)), placed along the length of the exterior of the first tube section, electrically connected to the output of the circuit. The device further comprising a second conductive lead being placed along the length of the exterior of the at least one additional tube section (references 52 and 52' and 121 (+ and -)). The conductive probe is electrically connected to the output of the circuit through the first conductive lead (column 3, lines 14-65).







Although Lin does not expressly disclose the high voltage generator comprising a voltage step-up circuit having an output of stepped-up voltage relative to the power source, Henderson et al. does. Henderson et al. teaches that it is well known to use a step-up transformer to convert a direct low voltage source to a high voltage (column 2, lines 9-25) for use in shocking devices. Although it appears that the end of the structure of Lin is composed of an electrically conductive material, Lin does not expressly disclose the end comprising a conductive probe, Larsen et al. does. Larsen et al. teaches a shock device with electric shock means comprising electrically conductive leads along the length of a tube section and electrically conductive probes (reference 32a and 32b) at the end of the structure for delivering a high-voltage shock. Although Lin does not expressly disclose the tube section having the specific tapers and taper rate, Strodtman does.



Strodtman teaches a telescoping defense device wherein the first tube section is tapered along at least a portion of the length of the first tube section, the taper beginning with the smallest diameter of the taper at the distal end of the first tube section, the at least one additional tube section is tapered along at least a portion of the length of the additional tube section, the taper beginning with the largest diameter of the taper at the proximal end of the additional tube section, wherein the rate of the taper of the first tube section is equal to the rate of taper of the at least one additional tube section in order to rapidly deploy the telescoping defense device. All the component parts are known in the references. The only difference is the combination of the “old elements” into a single device by mounting them as a single weapon. Thus it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the step-up transformer as taught by Henderson et al., the end conductive probes as taught by Larsen et al. and the tapered telescoping tube sections as taught by Strodtman with the weapon device as taught by Lin, since the operation of the step-up transformer, the end conductive probes and the tapered telescoping tube sections causing a frictional connection which locks the additional tube section in its extended position is in no way dependent on the other equipment of the weapon and the individual elements could be used on a standard weapon to obtain the predictable results of a defense device that would work on low-voltage batteries that could be used with increased efficiency as a weapon in hand-to-hand fights as suggested by Larsen et al. and as a device that could be carried compactly yet quickly deployed as suggested by Strodtman at column 3, lines 6-9.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michelle (Shelley) Clement whose telephone number is 571.272.6884. The examiner can normally be reached on Monday thru Thursday 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 571.272.6873. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michelle (Shelley) Clement/  
Primary Examiner, Art Unit 3641